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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO	
10/634,933	08/05/2003	S. Scott Zolnier	85937.000006	6569	
23387	7590 07/20/2004		EXAMINER		
Stephen B. Salai, Esq. Harter, Secrest & Emery LLP			BOCHNA, DAVID		
1600 Bausch &			ART UNIT PAPER NUMBER		
Rochester, NY 14604-2711			3679		
			DATE MAIL ED: 07/20/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner		Application No.	Applicant(s)	
David E. Bochna 3679 367		10/634,933	ZOLNIER ET AL.	. /•
The MAILING DATE of this communication appears on the cover sheef with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Ederations of them reply to surfacilise under the proximism of 37 CPR 1.136(s). In no event, however, may a reply be limity filled where 9X (s) MONTHS from the making date of this communication. If NO period from the reading date of the communication of the control of the property of the providence of the communication. If NO period for cryby is proficed dates, the making and an ability prior of the application to become ABANDONED (38 U.S.C. § 133). Any reply recorded by the foliate them these making after the making address of the communication, over if timely filed, may reduce any overland plants term supulations. Both 37 CPR 1.74(b). Status 1) Responsive to communication(s) filed on	Office Action Summary	Examiner	Art Unit	
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION. Education of these may be available under the specification of 37 CFR 1136(a). In no ovent, however, may a reply be timely filed If the pariod for reply is appecified above, the maximum statutory period will apply and will capital SIX (b) MONTHS from the malling date of this communication. If the pariod for reply specified above, the maximum statutory period will apply and will capital SIX (b) MONTHS from the malling date of this communication. Failute to require you within the cat or estimated period for reply will, by statute, cause the application to become ABANDHOE (33 U.S. € 133)-ceremed patient term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filled on		David E. Bochna	3679	
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1) Responsive to communication(s) filed on	A SHORTENED STATUTORY PERIOD FOR REF THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a r - If NO period for reply is specified above, the maximum statutory perion - Failure to reply within the set or extended period for reply will, by stat Any reply received by the Office later than three months after the main	N. 1.136(a). In no event, however, may reply within the statutory minimum of od will apply and will expire SIX (6) N tute, cause the application to become	r a reply be tirnely filed thirty (30) days will be considered timely. ONTHS from the mailing date of this communications of the communication of the commun	cation.
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-28 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) 1-28 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.	Status			
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Art Unit: 3679

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to an apparatus, classified in class 285, subclass 261.
- II. Claims 6-28, drawn to a method of forming a surface, classified in class 427, subclass 446+.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as molding, gluing or painting the coating onto the joint surface, rather than applying the coating by impaction.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR

1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Bochna whose telephone number is (703) 306-9040. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

David Bochna Primary Examiner Art Unit 3679 July 15, 2004